

**TO:** Zoning Board of Adjustment  
**FROM:** Community Development Department  
**DATE:** March 9, 2016

**RE:** CASE #BA-16-001

**APPLICABLE  
CODE SECTIONS:**

- §15.23.020(01) Off-Street Parking, Loading and Unloading, General Provisions, of the Municipal Code (Zoning Ordinance). Whenever an addition to an existing structure is proposed, all of the applicable provisions contained within this chapter regarding number of spaces, area or usability of existing parking, loading and unloading spaces or other areas requiring a paved surface, shall be complied with.
- §15.23.020(07) Off-Parking, Loading and Unloading, General Provisions, of the Municipal Code (Zoning Ordinance). In non one and two family uses, all parking surfaces, spaces, circulation and aisles along the outer boundaries of a parking lot, vehicle entry paths, apron spaces, all driveways and other traveled areas shall be setback a minimum of five feet from the property line unless required for approved access.
- §15.23.030(1)(D1) Off Street Parking, Loading and Unloading, Required Green Space, of the Municipal Code (Zoning Ordinance).  
All parking lots with 7,500 square feet shall meet the following requirements:
  1. A minimum of five (5) feet of landscaped area is required between a parking surface and the property line.

**RELIEF SOUGHT:**

- A variance to allow a zero setback for parking lot paving and drive aisles along the south (interior) and west property lines, as opposed to the required five feet.
- A variance to allow a minimum three foot setback for parking lot paving and drive aisles along the north property line, as opposed to the required five feet.
- A variance to allow a minimum two foot setback for parking lot paving and drive aisles along the southeastern property line, as opposed to the required five feet.

**LEGAL  
DESCRIPTION:**

Being part of the NW1/4 SW1/4 of Section 12-74-44, City of Council Bluffs, Pottawattamie County, Iowa, more particularly described as follows: Commencing at the West ¼ corner of said Section 12, thence North 90°00'00"E a distance of 33 feet to the Point of Beginning; thence along the centerline of said Section 12, North 90°00'00"E a distance of 501.04 feet; thence South 00°23'20"W a distance of 285.13 feet; thence South 90°00'00"W a distance of 215.16 feet; thence North 00°14'15"E a distance of 132.36 feet; thence South 90°00'00"W a distance of 285.13 feet; thence along the Easterly right-of-way line of South 11th Street North 00°14'15"E a distance of 152.77 feet to the point of beginning.

**LOCATION:** 1011 34<sup>th</sup> Avenue, Council Bluffs, IA 51501

**APPLICANT/**

**OWNER:** 1011 34th Avenue LLC a/k/a 1101 34th Avenue LLC  
c/o David H. Edwards  
1011 34<sup>th</sup> Avenue, Council Bluffs, IA 51501

**REPRESENTATIVE:** Ralph E. Gladbach, AIA CSI,  
GP Architectural LLC, 1708 Childs Road East, Bellevue, NE 68005

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**BACKGROUND INFORMATION** – The Community Development Department has received an application from 1011 34th Avenue LLC a/k/a 1101 34th Avenue LLC, represented by Ralph E. Gladbach, for the above stated variances on property located at 1011 34<sup>th</sup> Avenue, Council Bluffs, Iowa. The owner proposes to construct a new 5,000 square building addition for a Subaru car dealership on the south/southwest area of the subject property (see Attachment 'A'). The proposed building addition will require compliance with all off-street parking requirements, as stated above. The applicant has provided a letter of intent which discusses their reasons for requesting said parking lot setback variances (see Attachment 'B'). Their primary reasons are relative to business operations, stormwater management and vehicle circulation, as summarized below:

1. Business operations: A preliminary site plan of the subject property was submitted with the application and shows the location of all non-conforming parking lot areas (see Attachment 'C'). The proposed plan shows a total of 222 vehicles (employee, customer and sales inventory) can be parked onsite. The applicant stated that the Subaru franchise recommends 299 vehicles be parked on their property to accommodate 45-day and 60-day car inventories. The dealership currently meets their recommended car inventory by parking vehicles on the subject property and on an abutting car lot owned by the applicant. The applicant stated that compliance with the five-foot parking lot setback may result in the loss of 20+ parking spaces (depending on final site circulation).
2. Stormwater management: The applicant stated the existing pavement layout is necessary to accommodate stormwater run-off from their parking lot into drainage swales along the north, east and west property boundaries. The applicant also states pavement layout is necessary to allow stormwater run-off from Western Engineering (located south of the subject property) to flow through their parking lot into a drainage swale on the east property boundary. The applicant is also concerned that installation of curbing around their parking lot will negatively impact their stormwater flow to their drainage swales.
3. Site circulation: The existing dealership building is located 10 feet from the south property line. The area between the building and south property line is completely paved over and is utilized for vehicle circulation onto South 11<sup>th</sup> Street. The applicant states that removal of said pavement area will negatively impact site circulation for this area of their property.

The following attachments are included with this report:

Attachment A: Preliminary building addition plans

Attachment B: Letter of intent

Attachment C: Preliminary site plan (showing parking lot pavement removal)

Attachment D: Topographical survey of the subject property

Attachment E: Location/zoning map

**CURRENT ZONING AND LAND USE** – The subject property contains 2.41 acres and is comparable in size and shape as other properties in the immediate vicinity. A topographical survey submitted by the applicant shows the subject property is relatively flat (see Attachment 'D'). A portion of the east parking lot area is sloped to accommodate stormwater run-off to an existing drainage swale along the east property

boundary. The size, shape and topography of the subject property do not create a physical hardship that would prevent the applicant from complying with the City's off-street parking setback standards.

The subject property and surrounding area is zoned I-2/General Industrial District (see Attachment 'E'). The property is being used as an automotive sales and rental business. All surrounding land uses are all industrial in nature. The use of the property for automotive sales and rentals is permitted and is not at issue. Two variances relative to detached signage have been granted by the Zoning Board of Adjustment for property located immediately north at 1012 34<sup>th</sup> Avenue (see CASES #BA-79-011 and BA-81-011).

The following exhibits show the existing conditions of the subject property and the surrounding area:

**Exhibit A: 2013 Aerial (pictometry) photograph of the subject property and surrounding area.**



**Exhibit B: Existing drive aisle setback along west side of property abutting S. 11<sup>th</sup> Street ROW.**





**Exhibit C:** Existing parking lot setback along south property line abutting Western Engineering.



**Exhibit D:** Existing parking lot setback along south property line abutting Western Engineering.



**Exhibit E:** Existing parking lot setback along south property line abutting C.B. Fire Station #5



**Exhibit F:** Parking lot setback and drainage swale along east property line.



**Exhibit G:** Parking lot setback and drainage swale along east property line (continued).



**Exhibit H:** Parking lot setback along north property line abutting 34<sup>th</sup> Avenue.





**Exhibit I:** Parking lot setback along north property line abutting 34<sup>th</sup> Avenue (continued).



**CITY DEPARTMENTS AND UTILITIES** – The following comments have been received:

Public Works Department –

1. The change from paved to green space around the parking lot perimeter does not inhibit the stormwater run-off from reaching the drainage swale unless:
  - a. The property owner is required to curb the lot; and/or
  - b. The property owner has to landscape the five foot-setback which changes the grade.
2. Requiring the property owner to only cut and remove pavement and then install turf grass should not cause issues with their stormwater run-off.

Community Development

1. The proposed building addition requires that the applicant comply with parking standards stated in Chapter 15.23, Off-Street Parking, Loading and Unloading of the Council Bluffs Zoning Ordinance. The subject property is relatively flat in topography and measures 2.41 acres. The combined square footage of the existing buildings (13,878 sq. ft.) and the proposed addition (5,000 sq. ft.) totals 18,878 square feet. Automotive sales and leasing uses require a minimum of 1 parking space per 500 square feet of gross floor area, as per Section 15.23.060, *Parking Spaces Required*, of the Council Bluffs Zoning Ordinance. Based on above calculation a minimum of 38 off-street parking spaces for customers and employees must be provided on the subject property. The size and terrain of the subject property make it sufficient for the proposed building addition and all required off-street parking for the automotive sales business to be constructed in compliance with City zoning regulations.
2. The Community Development Department recognizes that the City storm sewers are not available in this section of 34<sup>th</sup> Avenue and South 11<sup>th</sup> Street. The applicant use of the adjacent drainage swales is necessary for managing their stormwater run-off. The removal of pavement along the perimeter of the parking lot and planting some form of turf grass to comply with the standards stated in Sections 15.23.020(07) and 15.23.030(1)(D1) of the Council Bluffs Zoning Ordinance will not negatively impact their stormwater management it will not impact the site topography and/or stormwater flow. The applicant's concern that constructing curbs along the perimeter of the parking lot will negatively impact their stormwater run-off can be addressed by use of concrete wheel stops, bollards, and/or chains which will the stormwater run-off to flow into the adjacent drainage swales.

3. The five foot landscape setback is also necessary for the applicant to be able to comply with the Section 15.23.030(1)(D3) of the Council Bluffs Zoning Ordinance relative to green space landscaping for parking lots over 7,500 square feet in size. The existing green space on the property is comprised of the 25 foot-wide drainage swale along the east property boundary and the narrow strips along the north and southeast property lines. If the parking lot setback variance is granted, the applicant must find another alternative(s) for complying with the above green space standard.
4. On-site vehicular circulation can be addressed through lane-striping to satisfy the City's zoning requirements. The applicant must stripe all of the required off-street parking spaces for the automotive sales and rental use to comply with City standards. Any additional parking spaces that are not needed to satisfy the required parking totals for the use do not have to be striped. The minimum five-foot setback is required for all proposed off-street parking and drive aisles.
5. The applicant's request for a variance to allow a zero parking lot setback along the west and south (interior) property lines is solely a design preference. The subject property has frontage and driveways onto 34<sup>th</sup> Avenue and South 11<sup>th</sup> Street. The garage doors on the west building elevation will remain accessible to vehicular traffic from existing driveways onto South 11<sup>th</sup> Street if the requested parking lot variances are not granted.

Council Bluffs Water Works – No comments.

Cox Communications – No conflict(s) with the variance request

Mid-American Energy – No concern(s) with the requested parking lot setback variance. Mid-American Energy stated that there may be conflicts with the proposed building addition and the location of the existing electrical service to the building.

**NEIGHBORHOOD RESPONSE** – All property owners located within 200 feet are notified of requests for variances. No comments have been received.

## COMMENTS

Evidence must be presented to demonstrate that a literal enforcement of the Ordinance will create a hardship for which relief is necessary. The Board of Adjustment shall approve a variance to grant relief when 'unforeseen applications of this Ordinance... create particular hardships'. No variance shall be granted unless the Board of Adjustment makes findings of fact based on the standards and conditions that follow. A variance less than requested may be granted by the Board when the record supports the applicant's right to some relief, but not to the entire relief requested. (§15.02.080 – Variances)

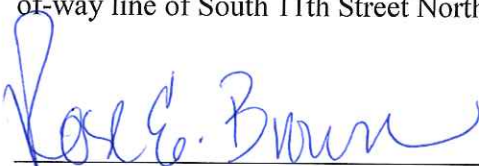
1. *The particular property, because of size, shape, topography or other physical conditions suffers singular disadvantage through the application of this ordinance, which does not apply to other properties in the vicinity. The size, shape and topography of the property are typical of those in general vicinity and surrounding area. The lot is generally flat with no physical impediments that would prevent the applicant from providing the required five-foot parking lot setback.*
2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property. The applicant currently operates their Subaru car dealership on the subject property. An automotive sales and rentals use is considered a principle use in an I-2 Industrial District. If the variance request are denied the applicant will be allowed to continue operating their car dealership on the subject property.*



3. The disadvantage does not exist because of conditions created by the owner or previous owners of the property. The variance requests are the result of an operational need and a design preference by the property owner and not an unnecessary hardship with the property.
4. Granting the variance will not confer on the applicant any special privileges that are denied by this ordinance to other properties or structures in the same district. Granting the variance will confer a special privilege to the applicant that is denied to other commercial and industrial property owners in the City. The subject property has no physical impediments that prevent the required five foot parking lot setback from being constructed.
5. Granting the variance will not be contrary to the public interest, will not adversely affect other property in the vicinity, and will be in harmony with the purpose and intent of this ordinance. Granting the variance will not be in harmony with the intent and purpose of the ordinance. The variance is being requested not because use of the property is destroyed by the regulation, but because of a design preference and operational need of the current property owner. The minimum parking lot setback standards can be accommodated on the parcel.

### RECOMMENDATION

The Community Development Department recommends denial of the requested variances for property located at 1011 34<sup>th</sup> Avenue, Council Bluffs, Iowa based on reasons stated above. Said property being more particularly described as being part of the NW1/4 SW1/4 of Section 12-74-44, City of Council Bluffs, Pottawattamie County, Iowa, more particularly described as follows: Commencing at the West ¼ corner of said Section 12, thence North 90°00'00"E a distance of 33 feet to the Point of Beginning; thence along the centerline of said Section 12, North 90°00'00"E a distance of 501.04 feet; thence South 00°23'20"W a distance of 285.13 feet; thence South 90°00'00"W a distance of 215.16 feet; thence North 00°14'15"E a distance of 132.36 feet; thence South 90°00'00"W a distance of 285.13 feet; thence along the Easterly right-of-way line of South 11th Street North 00°14'15"E a distance of 152.77 feet to the point of beginning.



Rose E. Brown, AICP  
Planning Coordinator



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